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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,918	09/16/2003	Richard A. Wilsak	37,512	2288

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BP America Inc.  
Docket Clerk, BP Legal, M.C. 5East  
4101 Winfield Road  
Warrenville, IL 60555

EXAMINER
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POPOVICS, ROBERT J

ART UNIT	PAPER NUMBER
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1797

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12/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10663918	9/16/03	WILSAK ET AL.	37,512

EXAMINER

Robert J. Popovics

ART UNIT

PAPER

1797

20071209

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

## Information Disclosure Statement

The information disclosure statements filed on December 18, 2006 and October 2, 2007 do not fully comply with the requirements of 37 CFR 1.97 and/or 1.98, minimally, because: A concise explanation of each of EP 1,080,768 (from IDS of 12/18/06) and DE 1,937,286 (from IDS of 10/02/07) has not been provided. Applicants are required to provide the required concise explanation, or point out where in the record such explanation can be found. Since the submission appears to be *bona fide*, applicant is given **ONE (1) MONTH** from the date of this notice to supply the above mentioned omissions or corrections in the information disclosure statement. **NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 CFR 1.136(a) OR (b).** Failure to timely comply with this notice will result in the above mentioned information disclosure statement being placed in the application file with the noncomplying information not being considered. See 37 CFR 1.98(3)(i).

Robert James Popovics  
Primary Examiner  
Art Unit 1724

[Revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003]

**§ 1.96 Submission of computer program listings.**

(a) *General.* Descriptions of the operation and general content of computer program listings should appear in the description portion of the specification. A computer program listing for the purpose of this section is defined as a printout that lists in appropriate sequence the instructions, routines, and other contents of a program for a computer. The program listing may be either in machine or machine-independent (object or source) language which will cause a computer to perform a desired procedure or task such as solve a problem, regulate the flow of work in a computer, or control or monitor events. Computer program listings may be submitted in patent applications as set forth in paragraphs (b) and (c) of this section.

(b) *Material which will be printed in the patent:* If the computer program listing is contained in 300 lines or fewer, with each line of 72 characters or fewer, it may be submitted either as drawings or as part of the specification.

(1) *Drawings.* If the listing is submitted as drawings, it must be submitted in the manner and complying with the requirements for drawings as provided in § 1.84. At least one figure numeral is required on each sheet of drawing.

(2) *Specification.*

(i) If the listing is submitted as part of the specification, it must be submitted in accordance with the provisions of § 1.52.

(ii) Any listing having more than 60 lines of code that is submitted as part of the specification must be positioned at the end of the description but before the claims. Any amendment must be made by way of submission of a substitute sheet.

(c) *As an appendix which will not be printed:* Any computer program listing may, and any computer program listing having over 300 lines (up to 72 characters per line) must, be submitted on a compact disc in compliance with § 1.52(e). A compact disc containing such a computer program listing is to be referred to as a "computer program listing appendix." The "computer program listing appendix" will not be part of the printed patent. The specification must include a

reference to the "computer program listing appendix" at the location indicated in § 1.77(b)(5).

(1) Multiple computer program listings for a single application may be placed on a single compact disc. Multiple compact discs may be submitted for a single application if necessary. A separate compact disc is required for each application containing a computer program listing that must be submitted on a "computer program listing appendix."

(2) The "computer program listing appendix" must be submitted on a compact disc that complies with § 1.52(e) and the following specifications (no other format shall be allowed):

(i) Computer Compatibility: IBM PC/XT/AT, or compatibles, or Apple Macintosh;

(ii) Operating System Compatibility: MS-DOS, MS-Windows, Unix, or Macintosh;

(iii) Line Terminator: ASCII Carriage Return plus ASCII Line Feed;

(iv) Control Codes: the data must not be dependent on control characters or codes which are not defined in the ASCII character set; and

(v) Compression: uncompressed data.

[46 FR 2612, Jan. 12, 1981; para. (b)(1), 54 FR 47519, Nov. 15, 1989, effective Jan. 16, 1990; revised, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; paras. (b) and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Sept. 8, 2000 (effective date corrected, 65 FR 78958, Dec. 18, 2000; para. (c) introductory text revised, 70 FR 54259, Sept. 14, 2005, effective Sept. 14, 2005]

**INFORMATION DISCLOSURE STATEMENT**

**§ 1.97 Filing of information disclosure statement.**

(a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with § 1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.

(b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

(1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);

(2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;

(3) Before the mailing of a first Office action on the merits; or

(4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.

(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

(1) The statement specified in paragraph (e) of this section; or

(2) The fee set forth in § 1.17(p).

(d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:

(1) The statement specified in paragraph (e) of this section; and

(2) The fee set forth in § 1.17(p).

(e) A statement under this section must state either:

(1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

(2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

(f) No extensions of time for filing an information disclosure statement are permitted under § 1.136.

If a *bona fide* attempt is made to comply with § 1.98, but part of the required content is inadvertently omitted, additional time may be given to enable full compliance.

(g) An information disclosure statement filed in accordance with section shall not be construed as a representation that a search has been made.

(h) The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b).

(i) If an information disclosure statement does not comply with either this section or § 1.98, it will be placed in the file but will not be considered by the Office.

[48 FR 2712, Jan. 20, 1983, effective date Feb. 27, 1983; 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (d) revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; paras. (a)-(d) revised, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; paras. (c)-(e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000); paras. (a) through (e) and (i) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000]

## § 1.98 Content of information disclosure statement.

(a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.

(1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed in a section separately from citations of other documents. Each page of the list must include:

(i) The application number of the application in which the information disclosure statement is being submitted;

(ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and

(iii) A heading that clearly indicates that the list is an information disclosure statement.

(2) A legible copy of:

(i) Each foreign patent;

(ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;

(iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and

(iv) All other information or that portion which caused it to be listed.

(3)(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

(b)(1) Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date.

(2) Each U.S. patent application publication listed in an information disclosure statement shall be identified by applicant, patent application publication number, and publication date.

(3) Each U.S. application listed in an information disclosure statement must be identified by the inventor, application number, and filing date.

(4) Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.

(5) Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

(c) When the disclosures of two or more patents or publications listed in an information disclosure statement are substantively cumulative, a copy of one

of the patents or publications as specified in paragraph (a) of this section may be submitted without copies of the other patents or publications, provided that it is stated that these other patents or publications are cumulative.

(d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

(1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and

(2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section.

[42 FR 5594, Jan. 28, 1977; para. (a) 48 FR 2712, Jan. 20, 1983, effective date Feb. 27, 1983; 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a)(2) and (b) revised, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000; para. (e) added, 68 FR 38611, June 30, 2003, effective July 30, 2003; paras. (a) and (c) revised and para. (e) removed, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

### § 1.99 Third-party submission in published application.

(a) A submission by a member of the public of patents or publications relevant to a pending published application may be entered in the application file if the submission complies with the requirements of this section and the application is still pending when the submission and application file are brought before the examiner.

(b) A submission under this section must identify the application to which it is directed by application number and include:

(1) The fee set forth in § 1.17(p);

(2) A list of the patents or publications submitted for consideration by the Office, including the date of publication of each patent or publication;

(3) A copy of each listed patent or publication in written form or at least the pertinent portions; and